

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

SCOTT B. LARSON,

Plaintiff,

vs.

THE BANK OF NEW YORK MELLON
C/O BANK OF AMERICA, N.A.,
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
FIRST AMERICAN TITLE COMPANY
OF MONTANA, INC., RECON TRUST
COMPANY, N.A., and all other Does or
John Does or parties known or unknown
thereof,

Defendants.

CV 15-81-M-DLC-JCL

FINDINGS AND
RECOMMENDATION

Plaintiff Scott Larson, appearing pro se, commenced this action with his complaint filed on July 6, 2015. The Court set a Fed. R. Civ. P. 16 preliminary pretrial conference for October 8, 2015.

Although Larson had obtained the issuance of summonses for service of his complaint, on October 6, 2015, Larson moved for an extension of time to effect service of process. By Order entered October 7, 2015, the Court granted Larson's motion, and reset the pretrial conference for December 2, 2015. The Court also cautioned Larson that if he did not timely serve his complaint on Defendants his

case would be subject to dismissal under Fed. R. Civ. P. 4(m).

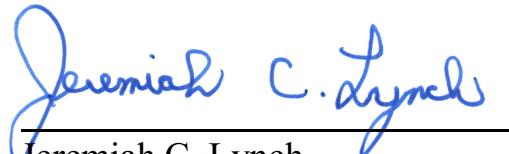
On November 30, 2015, Larson again moved for an extension of time. Consequently, by Order entered December 1, 2015, the Court vacated the December 2, 2015 pretrial conference, but also noted that Larson had not effected service of process within 120 days after filing his complaint as required by Fed. R. Civ. P. 4(m).

Rule 4(m) requires a court to dismiss a complaint without prejudice if the defendants are not served with the referenced 120-day period, unless the plaintiff shows good cause for the failure to serve the complaint. Therefore, in its December 2, 2015 Order the Court afforded Larson an opportunity to file a brief showing good cause why he had not yet effected service of process.

Based on Larson's response to the December 2, 2015 Order, by Order entered December 12, 2015, the Court found Larson had sufficiently presented good cause explaining his failure to serve his complaint. Therefore, the Court extended the deadline for service of his complaint until February 5, 2015. The Court again cautioned Larson that if he did not effect service by this extended deadline his complaint would be subject to dismissal under Rule 4(m). As of the date of this recommendation, Larson has not filed proof of service for his complaint and he has not requested an extension of time.

Therefore, pursuant to Rule 4(m), IT IS RECOMMENDED that this action be dismissed without prejudice due to Larson's failure to effect service of process within the time permitted under Rule 4(m), or within the extension of that time granted by the Court.

DATED this 29th day of February, 2016.



Jeremiah C. Lynch
United States Magistrate Judge